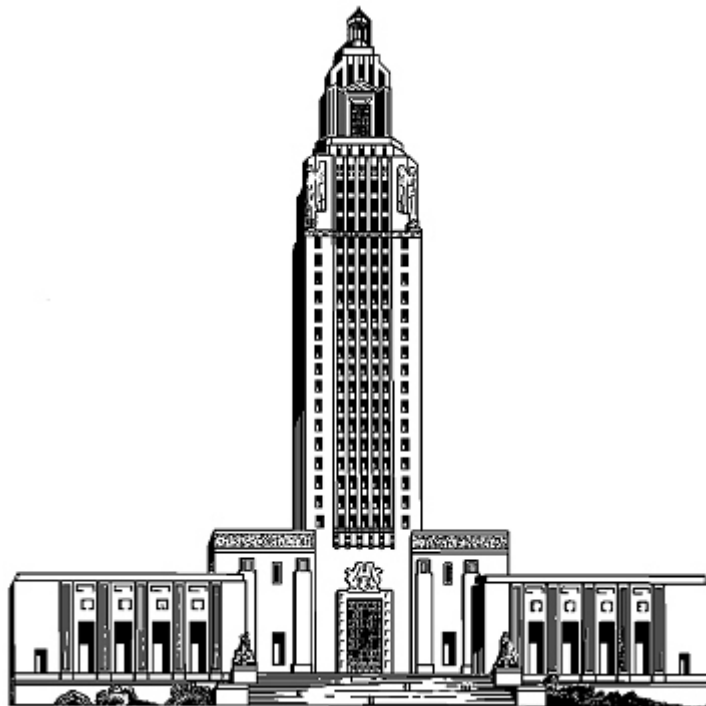


**Background and Summaries
of the
2003 CONSTITUTIONAL AMENDMENTS**

2003 Gubernatorial Primary Election

October 4, 2003



**Prepared by:
House Legislative Services
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Background and Summaries of the 2003 Constitutional Amendments

2003 Gubernatorial Primary Election ~ October 4, 2003

Ballot Position: #1 **Act No. 1302**
..... **SB No. 214, 2003 R.S.**

Discussion:

Currently: The constitution creates the Wetlands Conservation and Restoration Fund. Portions of revenues received by the state as a result of the production of minerals, from severance taxes for example, are deposited into the Fund. Money in this fund is used to finance coastal restoration projects. However, the balance of the Fund comprised of such revenues may not exceed \$40 million.

Amendment: The proposed amendment would change the cap on the mineral revenues in the Fund. The new cap would be set by law but could not be lower than \$500 million.

Currently: The constitution also creates the Mineral Revenue Audit and Settlement Fund. When the state receives monies through a settlement or judgment that is the result of underpayment of certain mineral revenues, severance taxes, for example, and the amount received as a result of the settlement or judgment exceeds \$5 million, portions of such revenues are deposited into this fund. Monies in this fund must be used to payoff certain debts in advance of maturity or to provide for payments against the unfunded accrued liability of the public retirement systems.

Amendment: The proposed amendment would require that before money in this fund is spent for such purposes, \$35 million will be transferred annually to the Wetlands Conservation and Restoration Fund.

Currently: The constitution creates the Revenue Estimating Conference and requires that it forecast the revenues that will be received by the state in the following year and to designate those revenues as recurring or nonrecurring. The conference's forecast is used in the preparation of the budget for the coming year. The constitution limits the ways nonrecurring revenues may be spent; generally, nonrecurring revenues may only be spent for nonrecurring costs such as the retirement of debt or capital projects.

Amendment: The proposed amendment would authorize two additional uses of nonrecurring revenue. Such revenue could be deposited into the Wetlands Conservation and

Restoration Fund or could be used to fund highway construction if federal matching funds are available.

Ballot Language:

Requires that thirty-five million dollars annually of monies in the Mineral Revenue Audit and Settlement Fund be deposited in the Wetlands Conservation and Restoration Fund each year and authorizes the legislature to appropriate nonrecurring revenues for certain highway construction and to appropriate monies in the Mineral Revenue Audit and Settlement Fund for deposit in the Wetlands Conservation and Restoration Fund, removes authority to appropriate monies from the Mineral Revenue Audit and Settlement Fund to retire in advance of maturity debt of the Louisiana Recovery District, corrects an incorrect reference to the Budget Stabilization Fund, and provides for a cap in revenues to the Wetlands Conservation and Restoration Fund to be provided by law, but in no event shall the amount provided by law be less than five hundred million dollars. (Amends Article VII, Section 10.2(B) and (C) and 10.5(B) and (C); Adds Article VII, Section 10(D)(2)(e) and (f)).

Ballot Position: #2 Act No. 1300
..... SB No. 213, 2003 R.S.

Discussion:

Currently: Most of the money received by Louisiana as a result of its lawsuit against tobacco companies is placed in the Millennium Trust. The constitution requires that interest on money in the Trust be used for health related programs, elementary and secondary education programs, and the Tuition Opportunity Program for Students (TOPS).

The tobacco settlement requires the companies to make annual payments to the state for many years. State law provides for an arrangement by which the state may sell bonds secured by tobacco payments in order to receive its money "up front". Under this arrangement, bonds are sold in such a way that other state revenues are not committed to repayment of the bonds should one or more of the tobacco companies go bankrupt. 60% of the anticipated tobacco revenues have already been secured in this way, so there remains 40% which may be secured. (Until this year, the law limited the amount that could be secured to 60%.)

Amendment: The proposed amendment would create the Louisiana Coastal Restoration Fund. Money in this Fund is to be used to finance coastal restoration projects. After July 1, 2003, if any remaining portion of the tobacco settlement is secured as described above, up to 20% of resulting revenue shall be transferred from the Millennium Trust to the Louisiana Coastal Restoration Fund, but only if state money is needed to match federal money which is available for coastal restoration projects. Money to be transferred would be taken equally from the health, education, and TOPS portions of the Millennium Trust.

Ballot Language:

To establish the Louisiana Coastal Restoration Fund in the state treasury; to provide that the source of monies deposited into the fund shall be out of certain monies derived from the securitization of any remaining portion of the revenues received from the Master Settlement Agreement in the tobacco litigation after July 1, 2003; to provide for investment of monies in the fund and for their uses to reduce coastal erosion and to restore the areas of the state directly affected by coastal erosion. (Effective January 1, 2004) (Adds Article VII, Section 10.11).

Ballot Position: #3 Act No. 1295
..... HB No. 424, 2003 R.S.

Discussion:

Currently: The state undertakes numerous coastal preservation and restoration projects each year. The state also leases tracts of waterbottom to oyster farmers who build oyster beds on those leases. Not surprisingly, many of the coastal projects are in the same areas as oyster leases, and some coastal projects have damaged some oyster beds. Some oyster farmers have sued the state for damages to the oyster beds and have been awarded millions of dollars. It is generally agreed that the amounts of the judgments in some of the suits far exceed the value of the property that has been lost.

Amendment: This amendment would authorize the legislature to establish limits on the extent of recovery for loss or damage to property caused by coastal wetlands activities. (HB531, effective if the amendment passes, limits such judgments to fair market value of the damaged property.)

Ballot Language:

To authorize the legislature to limit the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities. (Amends Article I, Section 4).

Ballot Position: #4 Act No. 1293
..... SB No. 225, 2003 R.S.

Discussion:

Currently: The constitution creates the State Board of Elementary and Secondary Education (BESE) and provides that the board shall supervise and control the public elementary and secondary schools and special schools under its jurisdiction and have budgetary responsibility for all funds appropriated or allocated by the state for those schools.

However, the constitution also specifies that BESE shall have no control over the business affairs of a local school board or the selection or removal of its officers and employees.

State law requires BESE to administer the School and District Accountability System. Under the accountability system, BESE evaluates and grades public schools based on student achievement and minimum standards for school approval.

Amendment: The amendment would create an exception to the limitation on BESE's authority to control local schools. If BESE determines that a school is failing, the amendment authorizes the board to supervise, manage, and operate, or to provide for the supervision, management, and operations of the school. This authority includes the power to receive, control, and expend certain local funds. The amount of such funds which BESE will control is based on the number of students attending the failing school.

Ballot Language:

To authorize the State Board of Elementary and Secondary Education to supervise, manage, and operate any public elementary or secondary school determined to be failing or to provide for others to do so; to authorize the state board to receive, control, and expend state minimum foundation program money and local money contributed pursuant to the minimum foundation program or otherwise in amounts calculated based on the number of students in attendance in such a school, all in the manner and in accordance with law. (Amends Article VIII, Section 3(A)).

Ballot Position #5 Act No. 1294
..... HB No. 282, 2003 R.S.

Discussion:

Currently: In 1991, the state constitution was amended to authorize the legislature to create a private, nonprofit corporation to sell workers' compensation insurance to employers, the Louisiana Workers' Compensation Corporation (LWCC). The constitution specifically provides for the composition of the board of directors of the corporation. Most of the members of the board are appointed by the governor.

The constitution requires that a representative of a competing workers' compensation insurance company and a representative of the state office of risk management be among the members of the board.

Amendment: The proposed amendment would remove these two positions from the board and replace them with two citizens representing the state at large.

Also, the constitution requires that a licensed agent selling workers' compensation

insurance be a member of the board; the amendment would require that the agent be selected from a list of nominations submitted to the governor by the LWCC board.

Ballot Language:

To provide for the appointment of certain members to the board of directors of the Louisiana Workers' Compensation Corporation; to allow the selection of one person from a list submitted by the Louisiana Workers' Compensation Corporation, who is a licensed workers' compensation insurance agent and possesses executive level experience; to remove the position for the representative of insurers licensed by the Department of Insurance to issue workers' compensation insurance policies in Louisiana; to allow the selection of two people from a list submitted by the Louisiana Workers' Compensation Corporation, who are residents of the state of Louisiana, to represent the interest of the citizens of the state at large; and to remove the provision allowing one representative from the state office of risk management to serve on the board. (Amends Article XII, Section 8.1(C)(1)(f) and (g); Repeals Article XII, Section 8.1(C)(1)(h)).

Ballot Position #6 Act No. 1301
..... SB No. 223, 2003 R.S.

Discussion:

Currently: The state is executing the Transportation Infrastructure Model For Economic Development (TIMED) program. The TIMED program comprises 16 major infrastructure projects (mostly highway and bridge improvements) which were identified as having a significant impact on economic development in the state. These projects are established by law and are funded by a four cents per gallon tax on gasoline and other fuels.

The constitution prohibits the legislature from making any changes to the projects that are part of the TIMED program.

Amendment: The proposed amendment would make slight changes in three of the 16 TIMED projects. Though one of the changes adds approximately seven miles of highway improvement, the net fiscal impact of all the changes has been estimated to be a cost savings of \$62.6 million.

The proposed changes are:

Current:	Changed to:
US Hwy 61 from Bains to the MS state line	US Hwy 61 from Thompson Creek to the MS state line

Current:	Changed to:
US Hwy 165 from I-10 through Alexandria, Monroe, & Bastrop to the AR state line	US Hwy 165 from I-10 through Alexandria & Monroe to Bastrop and US Highway 425 from Bastrop to the AR state line
LA Hwy 15 from Natchez, MS to Monroe	LA Hwy 15 from Natchez, MS to Chase

Ballot Language:

To change certain TIMED project descriptions as follows: (1) US Highway 61 from Thompson Creek to the Mississippi Line, in lieu of "US Highway 61-Bains to Mississippi Line" and (2) US Highway 165 from I-10 to Alexandria to Monroe to Bastrop and thence on US Highway 425 from Bastrop to the Arkansas Line, in lieu of "US 165-I-10-Alexandria-Monroe-Bastrop-Arkansas Line" and (3) and LA 15-Natchez, Mississippi to Chase in lieu of "LA 15-Natchez, Mississippi to Monroe". (Amends Article VII, Section 27(B)).

Ballot Position #7 Act No. 1299
..... SB 177, 2003 R.S.

Discussion:

Currently: The constitution prohibits the state and local governments from giving away or loaning money or other things of value. There are, however, a number of exceptions to this prohibition.

State law creates a State Infrastructure Bank as a mechanism to assist in the financing of infrastructure projects, particularly local highway construction projects. The law provides that the bank may make loans or guarantee loans.

Amendment: This amendment would provide an exception to the prohibition on giving away or loaning money. Specifically, it would ensure that some of the financial arrangements that state law authorizes the bank to enter into are not prohibited by the constitution.

Ballot Language:

To authorize a state infrastructure bank to loan or pledge public funds for infrastructure projects. (Amends Article VII, Section 14(B)).

Ballot Position #8 Act No. 1297
..... HB 425, 2003 R.S.

Discussion:

Currently: The constitution authorizes local governments to levy property taxes; the state does not levy any property taxes. However, the state constitution specifies what property is exempt from property taxes, so any changes to property tax exemptions requires a constitutional amendment.

Amendment: This amendment would provide that drilling rigs that are used outside of the territorial limits of the state but which are in Louisiana for storage or repair are exempt from property taxes, but only in those parishes where the exemption is approved by the voters of that parish.

Ballot Language:

To exempt from property tax, in each parish in which the voters have approved a proposition granting such exemption, drilling rigs, and any property incorporated in or used in the operation thereof, used outside of the state exclusively for the exploration and development of minerals, but which are located within the state for the purpose of being stored, stacked, converted, renovated, or repaired. (Effective January 1, 2004)(Adds Article VII, Section 21(J)).

Ballot Position #9 Act No. 1305
..... HB No. 583, 2003 R.S.

Discussion:

Currently: Legislative appropriations for the state's minimum foundation program (MFP) of education provide the bulk of state funding for the state's 68 local public school systems. The MFP formula, adopted annually by the State Board of Elementary and Secondary Education and submitted to the legislature for its approval or rejection but not change, is used to determine the cost of the program of education and to equitably allocate funds to the public school systems. The state constitution requires the legislature to fully fund the MFP cost based on the most recent legislatively approved MFP formula. Implementation of the approved formula for the 2003-2004 school year is estimated by the state Department of Education to cost \$2.532 billion.

Since 1994, the legislature each year has used all proceeds from the state lottery as a funding source for MFP appropriations, except for \$500,000 a year which has been used to fund compulsive gambling services. For FY 02-03, \$125 million in lottery proceeds went for MFP purposes.

Amendment: The proposed amendment would constitutionally require that future legislatures use

lottery proceeds to fund the MFP, except for up to \$500,000 dollars which may be used for compulsive gambling services.

Ballot Language:

To require that monies in the Lottery Proceeds Fund be annually appropriated by the legislature for the minimum foundation program of education for public elementary and secondary schools and up to five hundred thousand dollars for services related to compulsive and problem gaming as may be provided by law. (Effective July 1, 2004) (Amends Article XII, Section 6(A)).

Ballot Position: #10 Act No. 1298
..... HB No. 601, 2003 R.S.

Discussion:

In response to a lawsuit challenging the constitutionality of the state's system of administrative law, this amendment would give constitutional status to the present system of Louisiana's administrative law which presently includes a Division of Administrative Law and the use of administrative law judges and presently limits the ability of a state agency to appeal an adverse ruling.

Ballot Language:

To authorize legislation creating a system of administrative law to commence and handle administrative adjudications, providing for the employment, qualifications, and authority of administrative law judges, and providing with respect to access to the courts by a governmental agency or public official seeking judicial review of an administrative agency determination. (Adds Article XII, Section 15).

Ballot Position: #11 Act No. 1307
..... HB No. 637, 2003 R.S.

Discussion:

Currently: The constitution creates the Revenue Estimating Conference and requires that it forecast the revenues that will be received by the state for the current and the following year and to designate those revenues as recurring or nonrecurring. The conference's forecast is used in the preparation of the budget for the coming year. The constitution limits the ways nonrecurring revenues may be spent; generally nonrecurring revenues may only be spent for nonrecurring costs such as the retirement of state debt or capital outlay projects.

The constitution creates the Budget Stabilization Fund. Money in this fund can be used by the state only under certain severe fiscal conditions. Among the revenues of

the state that are deposited into the Fund are: (1) All mineral revenues received by the state in each fiscal year in excess of \$750 million and (2) 25% of any money recognized by the Revenue Estimating Conference as nonrecurring.

Since some mineral revenues are considered nonrecurring, these requirements create the possibility that the same nonrecurring mineral revenues are counted twice in calculating contributions to the Budget Stabilization Fund.

Amendment: This proposed constitutional amendment would preclude the same nonrecurring mineral revenue amounts from being used in these two separate calculations for determination of allocations to the Budget Stabilization Fund.

Ballot Language:

To provide that mineral revenues classified under the constitution as nonrecurring revenues shall not also be classified as mineral revenues for purposes of determining the amount of such revenues to be deposited in the Budget Stabilization Fund. (Amends Article VII, Sections 10.3(A)(2)(a)(introductory paragraph) and 10.5(B)).

Ballot Position: #12 Act No. 1304
..... HB No. 604, 2003 R.S.

Discussion:

Currently: The state constitution in its protection of the right to property contains a provision to protect a person's personal effects from seizure by the state. The exact language of the constitution is:

Personal effects shall never be taken. But the following property may be forfeited and disposed of in a civil proceeding, as provided by law: contraband drugs; property derived in whole or in part from contraband drugs; property used in the distribution, transfer, sale, felony possession, manufacture, or transportation of contraband drugs; property furnished or intended to be furnished in exchange for contraband drugs; property used or intended to be used to facilitate any of the above conduct; or other property because the above described property has been rendered unavailable.

The supreme court recently ruled that this language did not apply to the seizure of a third-time DWI offender's motor vehicle because that is a criminal seizure and the constitutional provision quoted above limits the power of the state only with respect to civil seizures.

This ruling caused constitutional scholars to reexamine this provision because it

raises a question about the constitutional status of numerous state laws which provide for the forfeit of items related to criminal activity.

Amendment: The proposed amendment has been suggested by those constitutional scholars as a way to make sure the state has the authority to seize property related to criminal activity.

The amendment would add the underlined language to the sentence quoted above, "Personal effects, other than contraband, shall never be taken."

Ballot Language:

To clarify that the constitutional protection to private ownership of personal property (effects) does not apply to contraband. (Amends Article I, Section 4).

Ballot Position #13 Act. No. 1303
..... HB No. 370, 2003 R.S.

Discussion:

Currently: The constitution prohibits the state and local governments from giving away or loaning money or other things of value. There are, however, a number of exceptions to this prohibition.

Amendment: This amendment would provide an additional exception to the prohibition by allowing municipalities and parishes to use tax revenues dedicated to industrial or economic development or proceeds from bonds secured by such tax revenues to acquire or maintain immovable property and to grant use of such or other immovable property to a person or entity that agrees to locate or expand industrial enterprises within the area.

Ballot Language:

To authorize local governments, in exchange for economic or industrial development, to use tax revenues dedicated to such development or proceeds of bonds secured by such revenues to acquire immovable property or maintain immovable property of the local government or to grant the use of such immovable property or other immovable property of the local government to persons, associations, or corporations that enter into an agreement to locate or expand industrial operations in the area, provided the consideration to be provided by the person, association, or corporation for use of such property is of any such amount or nature as provided in the agreement, a number of area residents are employed as specified in the agreement, and the agreement is approved by the State Bond Commission. (Amends Article VII, Section 14 (B)).

Ballot Position: #14 Act No. 1306
..... HB No. 576, 2003 R.S.

Discussion:

Currently: The Constitution creates the position of legislative auditor to serve as a fiscal advisor to the legislature and to audit fiscal records of state and local government.

Amendment: The proposed amendment would prohibit the legislative auditor or any of his employees from engaging in political activities in a manner very similar to the existing constitutional prohibition on political activities by classified civil service employees. The proposed amendment defines the term "political activity" as an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. The proposed amendment would provide for the administration and enforcement of the prohibition by the Board of Ethics.

The amendment would also prohibit the legislative auditor from qualifying for elected office for a period of two years after leaving that position.

Ballot Language:

To prohibit the legislative auditor and any employee of the office of the legislative auditor from engaging in political activities, becoming a candidate for public office, contributing to political campaigns, and soliciting campaign contributions; and to prohibit any former legislative auditor from qualifying for elected public office until a period of two years has passed following the termination of his service as legislative auditor. (Amends Article III, Section 11).

Ballot Position: #15 Act No. 1296
..... HB No. 19, 2003 R.S.

Discussion:

Currently: The constitution requires judges to retire at age 70.

Amendment: The proposed amendment would allow a judge who reaches the age of 70 while in office to complete his term of office rather than immediately vacating the office as currently required.

Ballot Language:

To permit a judge who attains the mandatory retirement age of seventy years while serving a term of office to complete that term of office. (Effective January 1, 2004)(Amends Article V, Section 23(B)).

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